

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHARLES A. FILHIOL,

Plaintiff,

vs.

TODD BAHENSKY, Director of Hall
County Department of Corrections;
AARON GRAY, Sergeant; TROY
TAYLOR, Classifications Officer;
JASON CONLEY, Classifications
Sergeant; TRAVIS MILEM, EDDY
CHAMPION, SARAH HOOD,
(Blodgett); DARLA SPARR, Sergeant;
BARBARA LURZ, TAMMY BADER,
DESTINEE CHAPPA, LACY
BROEKER, NICHOLE LOVE, and
ANGELA MACIEJEWSKI,

Defendants.

8:16CV460

**MEMORANDUM
AND ORDER**

This matter is before the court on Defendant Todd Bahensky's supplemental response to the court's Memorandum and Order dated June 5, 2017 ([Filing No. 28](#)). ([Filing No. 52](#).) Defendant Bahensky has identified an additional individual who was personally involved in Plaintiff's treatment and care from September 3rd to September 7th, 2016: Angela Barcenas, a current employee of Advanced Correctional Health Care. Accordingly,

1. Plaintiff's Eighth Amendment claim for deliberate indifference to serious medical needs (i.e. burn treatment) will proceed to service of process against Angela Barcenas in her official and individual capacities.

2. For service of process on Defendant Angela Barcenas in her official capacity, the clerk of the court is directed to complete a summons form and USM-285 form for Defendant Barcenas using the address “Hall County Clerk, 121 South Pine Street, Grand Island, NE 68801,” and forward them together with a copy of the Complaint ([Filing No. 1](#)), Supplement ([Filing No. 17](#)), Amended Complaint ([Filing No. 21](#)), and a copy of this Memorandum and Order to the Marshals Service. **The Marshals Service shall serve Defendant Barcenas in her official capacity at the Hall County Clerk, 121 South Pine Street, Grand Island, NE 68801.** See Federal Rule of Civil Procedure 4(j)(2); Neb. Rev. Stat. § 25-510.02 (Reissue 2016).¹

3. The clerk of the court is directed to obtain the last-known address for Defendant Angela Barcenas from the United States Marshals Service for service of process on Defendant Barcenas in her individual capacity. Once such address is obtained, the clerk of the court is directed to complete a summons form and a USM-285 form for Defendant Barcenas using the address provided by the Marshals Service and forward them together with a copy of the Complaint ([Filing No. 1](#)), Supplement ([Filing No. 17](#)), Amended Complaint ([Filing No. 21](#)), and a copy of this Memorandum and Order to the Marshals Service for service of process on the defendant in her individual capacity. **The Marshals Service shall serve**

¹ Pro se litigants proceeding in forma pauperis are entitled to rely on service by the United States Marshals Service. *Wright v. First Student, Inc.*, 710 F.3d 782, 783 (8th Cir. 2013). Pursuant to 28 U.S.C. § 1915(d), in an in forma pauperis case, “[t]he officers of the court shall issue and serve all process, and perform all duties in such cases.” See *Moore v. Jackson*, 123 F.3d 1082, 1085 (8th Cir. 1997) (language in § 1915(d) is compulsory). See, e.g., *Beyer v. Pulaski County Jail*, 589 Fed. Appx. 798 (8th Cir. 2014) (unpublished) (vacating district court order of dismissal for failure to prosecute and directing district court to order the Marshal to seek defendant’s last-known contact information where plaintiff contended that the Jail would have information for defendant’s whereabouts); *Graham v. Satkoski*, 51 F.3d 710, 713 (7th Cir. 1995) (when court instructs Marshal to serve papers for prisoner, prisoner need furnish no more than information necessary to identify defendant; Marshal should be able to ascertain defendant’s current address).

Defendant Barcenas in her individual capacity using any of the following methods: personal, residence, certified mail, or designated delivery service. See [Federal Rule of Civil Procedure 4\(e\)](#); [Neb. Rev. Stat. § 25-508.01 \(Reissue 2016\)](#).

4. The United States Marshal shall serve all process in this case without prepayment of fees from Plaintiff.

5. The clerk of the court is directed to file under seal any document containing the last-known personal addresses for Defendant Barcenas.

6. The clerk of the court is directed to set the following pro se case management deadline: November 30, 2017: check for completion of service of process.

7. The clerk of the court is directed to add Angela Barcenas as a defendant in this matter.

Dated this 1st day of September, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge